

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(212)

RSA-3416-2012

Date of Decision : April 01st, 2024

Satnam Singh

.. Appellant

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naresh Kumar Ganga, Advocate, for the appellant.

Mr. Sandeep Singh Mann, Addl. A.G., Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present appeal, the challenge is to the judgments and decrees of the Courts below by which, the suit filed by the appellant-plaintiff challenging the imposition of punishment dated 23.05.2006, has been dismissed, which judgment and decree of the trial Court has been upheld by the lower Appellate Court.

2. Learned counsel for the appellant argues that in the present case, no embezzlement has taken place but the only allegation was that the appellant-plaintiff tried to embezzle the amount hence, once there is no embezzlement, the award of punishment of stoppage of two increment with cumulative effect, is arbitrary and illegal, which fact has been ignored by the Courts below so as to dismiss the suit filed by the appellant-plaintiff.

3. Learned State counsel submits that against the appellant-plaintiff, a due enquiry was held and in the enquiry, it has already come on record that the appellant-plaintiff was trying to sell the used tickets to the passengers so as to embezzle the amount and the said allegations have already been proved in the departmental enquiry hence, the imposition of

punishment on the appellant-plaintiff is perfectly valid and legal.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. The factum that prior to the imposition of punishment, the departmental enquiry was held against the appellant-plaintiff wherein, the allegations were proved, is a conceded fact. Once, in the departmental enquiry, the allegations alleged against the appellant-plaintiff have been proved, the Court cannot sit in appeal over the decision of the punishing authority. The Courts are only to ensure that the procedure envisaged under the Rules for conducting the departmental proceedings are followed. It is a settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.17-18 of 2021 titled as Deputy General Manager (Appellate Authority) and others vs. Ajai Kumar Srivastava, decided on 05.01.2021*** wherein, it was held that power of judicial review of the constitutional Courts is an evaluation of decision making process and not the merits of the decision itself. Relevant paragraph of the said judgment is reproduced as under:-

“ 25. It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority if based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of

record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.

29. The Constitutional Court while exercising its jurisdiction of judicial review under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of malafides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.”

6. In the present appeal, no such argument has been raised that the procedure followed before imposition of punishment was faulty or contrary to the provisions applicable for the said purpose. In the absence of any such allegation, merely that the allegation alleged against the appellant-plaintiff was that he was trying to embezzle and the embezzlement has not taken place, will not exonerate of the allegations which stood proved in the departmental enquiry.

7. No other argument was raised.

8. Keeping in view the above, as no perversity in the orders passed by the Courts below could be pointed out by the learned counsel for the appellant, no ground is made out for any interference by this Court in the present case.

9. Dismissed.

April 01st, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No